IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 820(S/S)2007

Smt. Kamla Patni W/o Sri M.C. Patni,
R/o Naiwal Building, Mallital, Nainital,
At present posted as Primary School, Dolmar,
Bhimtal Block, District Nainital. ---- Petitioner.

Vs.

1. State of Uttarakhand through Secretary,
   Department of Education (Basic), Uttarakhand, Dehradun,
2. Director, Schools Education (Basic),
   Uttarakhand, Dehradun,
3. Smt. Sushma Singh,
   Addl. District Education Officer (Basic),
   Nainital.

----Respondents.

Sri C.D. Bahuguna, learned Counsel for the petitioner and
Sri Paresh Tripathi, learned Standing Counsel for the State of Uttarakhand.

Hon'ble M.M. Ghildiyal, J.

Heard Sri C.D. Bahuguna, learned Counsel for the petitioner and Paresh Tripathi, learned Standing Counsel for State of Uttarakhand/respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. Issue a writ, order or direction in the nature of certiorari quashing the impugned order of transfer dated 02.06.2007, issued by the Additional District Education Officer (Basic), Nainital, contained in annexure-1 to this writ petition, so far as it relates to the petitioner,
ii. Issue any other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case,
iii. Award cost of the present writ petition to the petitioner.

Submission of the learned counsel for the petitioner is that the petitioner was initially appointed as an Assistant Teacher in C.T. Grade on 12th December 1996 and was posted in Primary School, Pyura, Ramgarh Block, District Nainital. On 15th February 2000, the petitioner was promoted to the post of Head Master and posted at Primary School Shitla, Ramgarh Block, district Nainital. Vide order dated 14th August 2006, the petitioner was transferred from Primary School, Shitla to Primary School, Dolmar, Block Bhimtal. The petitioner remained attached in the office of Deputy Basic Education Officere, Nainital for about three months vide order dated 12th September 2006 and after about three months, vide order dated 6th December 2006 the petitioner was directed to go back to Primary School, Dolmar, Block Bhimtal. In pursuance of the order dated 6th December 2006 the petitioner joined at his present place of posting. Grievance of the petitioner is that though the petitioner had joined at Primary School, Dolmar just on 26th August 2006 and within a span of only ten months the petitioner has been transferred four times and ultimately by the impugned order transferred to Primary School, Shitla, Block Ramgarh, District Nainital. Although, she remained attached in the office of Deputy Basic Education Officer, Nainital for about three months, but the attachment was removed and she continued to draw her salary from Primary School, Dolmar where she was regularly posted vide order dated 14th August 2006.

It is further contended that as the petitioner has already served the discomfort and remote areas since 1996 to 2006 but ignoring this aspect, she has again been transferred to such area which is located 5 Kms. away from road head and falls within the most discomfort place (Durgam area). The petitioner served

at Pyura for more than 3 years; similarly she worked at Shitla for more than 6 years, which are situated in the remotest rural places (Durgam areas).

It is further submitted that the husband of the petitioner is posted in the office of L.I.C., Nainital and her child is studying in St. Joseph's College, Nainital.

In the circumstances mentioned above, the petitioner is directed to move representation raising all her grievances before the respondent no. 2 within ten days from today. In case, the petitioner complies with the directions of this Court, the respondent no. 2, after receiving representation from the petitioner, shall take decision on the same by passing a speaking order on the points raised by the petitioner in her representation, within a period of two weeks from the date of receiving representation alongwith a certified copy of this order. Till the representation is decided by the respondent no. 2 or till 31st July 2007, the impugned transfer order dated 2nd June 2007 passed by the Addl. District Education Officer, (Basic) Nainital, so far it relates to the petitioner shall not be given effect to.

The petitioner is directed to submit a certified copy of this order before the respondent no. 2 within ten days from today.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

July 6, 2007:
NCM: